IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Appeal No. 430-DBA of 2000

Date of Decision :- September 26, 2006

State of Haryana ....APPELLANT

VERSUS

Kishan Lal ....RESPONDENT

Criminal Revision No. 361 of 2000

Sita Ram ....PETITIONER

VERSUS

Kishan Lal and another ....RESPONDENT

CORAM: HON'BLE MR. JUSTICE MEHTAB S.GILL
HON'BLE MR. JUSTICE BALDEV SINGH

Present:- Mr. Kulvir Narwal, Addl. Advocate General, Haryana.

Mr. K.K. Aggarwal, Senior Advocate with
Mr. Kapil Aggarwal, Advocate
for the respondent/accused.

Mr. Atul Lakhanpal, Advocate for the complainant/petitioner.

MEHTAB S.GILL, J.

We will be taking up Criminal Appeal No. 430-DBA of 2000 and Criminal Revision No. 361 of 2000 together, as both arise out of the same judgment/order. The State has filed an appeal against the judgment/order dated 16.8.1999/19.8.1999 of the Sessions Judge, Narnaul whereby he did not convict accused under Section 302 IPC and held him guilty under Section 304A IPC and sentenced him to undergo two years RI and directed him to pay a fine of Rs.20,000/-, in default, to further undergo RI for six months.

The case of the prosecution is that Manoj Kumar lodged DDR No. 40, dated 29.4.1998 Ex.PD at Police Station Ateli and stated that he is working at Ateli Service Station. He and Ashok son of Makhan Lal were on duty from 6.00 p.m. to 6.00 a.m. on the night intervening 28/29.4.1998. At about 4.30 a.m., bus bearing registration No.RRA-9955 on the driver's seat accused Krishan Lal was seated and another bus bearing registration No. RNA-2711, which was parked towards the eastern side of the office and another bus bearing registration No.RJF 9507 was parked towards the western side of the office. Krishan Lal drove bus No. RRA 9955 and hit Ram Charan the driver of bus No. RJF-9507, who was sleeping on a Takhat. Ram Charan was crushed to death. Thereafter Krishan Lal got down from bus No.RRA-9955, but was caught by the attendants of a petrol pump, which was nearby. The motive of the commission of the offence was that Ram Charan and Krishan were having strained relations on account of some financial dealings they had with each other.

The prosecution to prove its case brought into witness box Dr. K.K.Yadav as PW1, Manoj Kumar as PW2, Sita Ram as PW3, Ajit as PW4, HC Dharampal as PW5. Constable Rakesh Kumar as PW6, Constable Satyawan as PW7, MHC Ram Kishan as PW8, Pawan Kumar Photgrapher as PW9, SI Baldev Singh as PW10 and SI Bhagat Ram as PW11.

Learned counsel for the appellant has argued that there is no delay in lodging of the FIR. Occurrence had taken place at 4.30 a.m. on 29.4.1998 and FIR Ex.PD/2 came into existence at 10.15 a.m. The ocular account of Manoj Kumar PW2 and Ajit PW4 is cogent and convincing. Both are independent witnesses. They were employees of Ateli Petrol Pump and saw the occurrence taking place. The medical evidence corroborates the ocular account. Accused ran the bus over the deceased. This is the reason that 2nd, 3rd, 4th and 5th ribs of the deceased were fractured.

Learned counsel for the accused has argued that there is a delay in lodging of the FIR. The motive for the commission of the offence related to some money delaying is not proved. Both witnesses Manoj Kumar PW2 and Sita Ram PW3 are silent on this aspect. No relative or any other person was brought into the witness box to prove the motive for committing of the crime. The medical evidence does not corroborate the ocular account. There are no tyre mark injuries on the body of the deceased. There is an unexplained delay in lodging of the FIR.

We have heard the learned counsel for the parties and perused the record with their assistance.

Occurrence had taken place at 4.30 a.m. on 29.4.1998. FIR Ex.PD/2 was recorded at 10.15 a.m. Sita Ram, the propounder of the FIR, was not an eye witness and he had given a version to the police on the information supplied to him by Manoj Kumar PW2. DDR No.40, dated 29.4.1998 was recorded at 7.00 a.m. We are not in consonance with the findings of the learned trial Court regarding the delay in lodging of the FIR. The delay has been adequately explained by the prosecution. Manoj Kumar PW2 is the eye witness and Ajit PW4, who went to ease himself, came and saw that the petrol pump staff had detained accused Krishan Lal. Ajit PW4 was told that accused had killed Ram Charan by running the bus over him. The presence of Manoj Kumar PW2 and Ajit PW4 is natural as both were employees of Ateli Petrol Pump. Their duty was from 6.00 p.m. on 28.4.1998 to 6.00 a.m. on 29.4.1998.

From the medical evidence, we can safely conclude that it is a case of accident and not of homicide. Dr. K.K.Yadav PW1, who performed the post mortem on the dead body of Ram Charan, found injuries on the chest and found 2nd, 3rd, 4th and 5th ribs were fractured. No external mark of injury and no tyre mark injury was noticed. This clearly shows that the bus did not run over the body of the deceased, but it hit the Takhat and deceased Ram Charan fell down in such a violent manner that he broke his ribs. The learned trial Court has rightly held that if accused wanted to put to death Ram Charan with the bus by over-running it, then his body would have been mutilated. In cases where vehicles like bus and truck run over the deceased, there are clear signs of such like injuries. The motive for commission of the offence is vague. Manoj Kumar PW2 or Sita

Ram PW3 has not spelled out any motive regarding money dealings of the accused with the deceased. No relative of the deceased was brought into the witness box to prove that the deceased and the accused had any sort of money dealings and were quarrelling over that matter.

We do not find any infirmity in the judgment of the learned trial Court. Appeal of the State is dismissed. Revision filed by the complainant is also dismissed.

(MEHTAB S.GILL)
JUDGE

(BALDEV SINGH)
JUDGE

September 26, 2006
SKA

WHETHER TO BE REFERRED TO REPORTER? YES/NO